

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries)	CC Docket No. 02-6
Universal Service Support Mechanism)	
)	
Request for Review and/or Waiver by)	
Leander Independent School District)	Application No. 878283
of a Decision by the)	
Universal Service Administrative Company)	

**REQUEST FOR REVIEW AND/OR WAIVER
BY LEANDER INDEPENDENT SCHOOL DISTRICT
OF A DECISION BY THE
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY**

Pursuant to sections 54.719 and 54.722 of the Commission's rules,¹ Leander Independent School District² (Leander ISD or the District) hereby respectfully requests a review of a Universal Service Administrative Company (USAC) decision to recover Schools and Libraries Universal Service (E-rate) funding for Funding Year 2013. Alternatively, Leander ISD respectfully requests a waiver of the Commission's rules to the extent necessary to grant the requested relief.

Leander ISD timely filed an invoice for Funding Year 2013 that lacked only the service provider certification. Leander ISD then resubmitted the invoice in August 2017, after USAC sent a letter informing Leander ISD that it qualified for relief pursuant to the Wireline

¹ 47 C.F.R. §§ 54.719, 54.722.

² Billed Entity Number 141722. The FRN is 2477003.

Competition Bureau's *Jefferson-Madison Regional Library Order*. USAC subsequently disbursed the requested funds, but now seeks to recover them.

In its denial of Leander ISD's appeal, USAC stated that Leander ISD had failed to submit its invoice by the deadline. This statement is factually incorrect. Leander ISD submitted an invoice on October 1, 2014, well ahead of the deadline. In its appeal to USAC, Leander ISD explained this clearly and attached the signed and dated BEAR form. It is thus unclear how USAC concluded that Leander ISD had missed the invoicing deadline and was therefore ineligible for relief under the *Jefferson-Madison Regional Library Order*. Regardless, that conclusions should be reversed. In the alternative, Leander ISD respectfully requests a waiver of the Commission's rules to the extent necessary to grant the requested relief.

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I. BACKGROUND

Leander Independent School District is a school district based in Leander, Texas. Leander ISD educates approximately 38,000 students at 42 campuses. The district covers 200 square miles in Leander, Cedar Park, Georgetown, Jonestown, Round Rock, and northwest Austin.

The invoicing deadline for Funding Year 2013 was October 28, 2014. On October 1, 2014—well ahead of that deadline—Leander ISD submitted invoice #2077234 to USAC through the legacy Billed Entity Applicant Reimbursement (BEAR) system.³ The invoice was for \$6,118.12, reflecting the total amount billed by the service provider, Bestline Communications, LP, for service provided pursuant to the above-captioned FRN. Because Bestline’s representative was out of the country at the time, Bestline did not certify the BEAR invoice. (Prior to funding year 2016, applicants that submitted BEAR forms also had to obtain a certification from their service provider that it had provided the requested services to the applicant.⁴) Leander ISD timely submitted an extension request in order to obtain the service provider’s certification for the invoices, as well as copies of the associated bills.⁵

Leander ISD has no record of any response from USAC after submitting its BEAR form and invoicing deadline extension request, other than an approval of the invoice extension, and Leander ISD did not receive the requested funding. Then, on August 2, 2017, Leander ISD received a letter from USAC.⁶ This letter informed Leander ISD that it could resubmit its

³ Exhibit 1, BEAR Invoice #2077234.

⁴ *Jefferson-Madison Regional Library Order*, para. 7.

⁵ Exhibit 2, Leander ISD’s invoicing deadline extension request was USAC case #22-683629.

⁶ Exhibit 3, August 2, 2017 Letter from USAC to Leander ISD.

invoice because the Commission had issued an order that allowed applicants to submit invoices that had been “late,” and therefore never paid, because they were waiting for their service providers to certify their BEAR invoices.⁷ The letter directed Leander ISD to resubmit its BEAR by September 1, 2017.⁸ Leander ISD promptly resubmitted its BEAR invoice #2656415 for the funding request on August 9, 2017.⁹ USAC approved the invoice and disbursed the requested funding.

On June 18, 2018, USAC sent Leander ISD a recovery of improperly disbursed funds (RIDF) letter, seeking recovery of the full amount that had been disbursed pursuant to the resubmitted BEAR form.¹⁰ The RIDF notice did not explain with specificity why USAC no longer believed that Leander ISD was eligible for relief under the *Jefferson-Madison Regional Library Order*, but it appeared that USAC had somehow concluded that Leander ISD’s BEAR form had been filed late.¹¹

Leander ISD filed an appeal with USAC on August 16, 2018.¹² In its appeal, Leander ISD explained that it had in fact filed its invoice on time, and it was missing only the service provider certification. Leander ISD argued that USAC had thus correctly determined that Leander ISD qualified for relief under the *Jefferson-Madison Regional Library Order*, and that USAC’s subsequent decision to recover the disbursed funds was therefore inappropriate. USAC

⁷ *Id.*

⁸ *Id.*

⁹ Exhibit 4, BEAR Invoice #2656415.

¹⁰ Exhibit 5, June 18, 2018 RIDF Letter.

¹¹ *Id.* (“Your invoice was received after the invoice deadline.”).

¹² Exhibit 6, Leander ISD Appeal to USAC.

denied Leander ISD's appeal on November 9, 2018, stating again that Leander ISD had filed its invoice late:

The invoicing deadline for Funding Request Number (FRN) 2477003 was March 12, 2015. The District did not submit a BEAR form for that FRN by that deadline, and therefore was ineligible for relief under the *Jefferson-Madison Reconsideration Order*. However, USAC erroneously identified the District as an applicant who qualified for the relief and improperly extended the invoice filing deadline for FRN 2477003 to September 1, 2017. Because USAC is not authorized to waive the FCC's invoicing deadline rules, USAC must recover funding that was disbursed in violation of the FCC's rules. For these reasons, your appeal is denied.¹³

Appeals of USAC decisions are due to the Commission within 60 days.¹⁴ As such, this appeal is timely filed.

II. USAC'S BASIS FOR SEEKING RECOVERY IS FACTUALLY INCORRECT AND INCONSISTENT WITH COMMISSION PRECEDENT

USAC should cease recovery efforts in this case first and foremost because its denial of the underlying appeal rests on a factual mistake: USAC asserts that Leander ISD's invoice was filed after the deadline, when in fact Leander ISD filed its invoice well *before* the deadline and made that clear in its appeal to USAC. USAC's original conclusion was the correct one: Leander ISD qualifies for the relief outlined in the *Jefferson-Madison Regional Library Order*. Its original invoice was filed on time, but without the required certification by the service provider. This is exactly the scenario for which the *Jefferson-Madison Regional Library Order* granted relief. Accordingly, Leander ISD respectfully asks that the Bureau reverse USAC's decision.

Furthermore, even if the *Jefferson-Madison Regional Library Order* did not apply, seeking recovery of funds would nonetheless be inappropriate under the Commission's *Fifth*

¹³ Exhibit 7, USAC Appeal Denial.

¹⁴ 47 C.F.R. §§ 54.719(a), 54.720(b).

Report and Order. The invoicing deadline rule is a purely procedural rule, and any error that USAC believes was made was not discovered until after the funds were disbursed. Under the *Fifth Report and Order*, recovery is not warranted in those circumstances.

A. Leander ISD Falls Within the Relief Granted by the Bureau in 2017

In the *Jefferson-Madison Regional Library Order*, the Wireline Competition Bureau reversed USAC's decision to reject a timely filed invoice when the service provider had not certified the invoice prior to the invoice filing deadline.¹⁵ The Bureau granted relief to all other similarly situated applicants to resubmit invoice filings.¹⁶ The Bureau found that the applicants in these circumstances were in compliance with section 54.514(a) of the E-rate program rules.¹⁷ Specifically, these applicants had filed their BEAR invoices on time and lacked only the service provider's certification prior to the deadline.¹⁸ The Bureau concluded that the Commission's rule required that the BEAR form be filed prior to the deadline, but did not require the submission of the BEAR certification prior to the deadline.¹⁹ The Bureau explained that "[b]etween August 2014 and July 2016 . . . , service providers had to certify an applicant's BEAR form on or before the invoice filing deadline, yet the applicant had no way to confirm in the system when, or if, this occurred."²⁰ The relief was therefore limited to invoices filed during that time period.²¹

¹⁵ *Petitions for Reconsideration by Jefferson-Madison Regional Library, et al.*, CC Docket No. 02-6, Order on Reconsideration, 32 FCC Rcd 4626 ¶ 1 (Wireline Comp. Bur. 2017) (*Jefferson-Madison Regional Library Order*).

¹⁶ *Id.*

¹⁷ *Id.* ¶¶ 7-8.

¹⁸ *Id.* ¶ 6.

¹⁹ *Id.* ¶¶ 7-8.

²⁰ *Id.* ¶ 7.

²¹ *Id.*

The facts in the instant appeal are exactly like the facts the Bureau considered in the *Jefferson-Madison Regional Library Order*. As in that order, Leander ISD submitted its BEAR invoice prior to the deadline: the invoice was filed on October 1, 2014, and the invoicing deadline for Funding Year 2013 was October 28, 2014. As in that order, the only thing missing from the timely-filed invoice was the service provider certification. Leander ISD therefore satisfies the requirements set forth in the *Jefferson-Madison Regional Library Order*.

Leander ISD is baffled by USAC's assertion that Leander ISD failed to submit its BEAR form by the extended invoicing deadline of March 12, 2015, when in fact Leander ISD filed the BEAR form well before the *original* invoicing deadline of October 28, 2014, and made that clear in its appeal to USAC. Leander ISD attached its BEAR form, signed and dated October 1, 2014, to its USAC appeal, and it is also attached to this appeal as Exhibit 1. USAC cited no other reason for recovering the funds. Accordingly, because USAC's only stated reason for seeking recovery is factually incorrect, Leander ISD respectfully asks that the Bureau reverse USAC's decision.

B. Recovery for a Purely Procedural Error Is Not Supported by Commission Precedent

USAC's recovery effort is also wholly inconsistent with the *Fifth Report and Order*, in which the Commission established a presumption that procedural errors that are not identified before funding is disbursed do not warrant recovery. The invoicing deadline is a procedural rule, so any violation of it is a procedural error. Accordingly, USAC's recovery effort in this case is inconsistent with the *Fifth Report and Order*.

In the *Fifth Report and Order*, the Commission addressed the circumstances under which USAC should seek to recover disbursed funding. The Commission stated that "[i]t is clear that funds disbursed in violation of the statute or a rule that implements the statute or a substantive

program goal must be recovered.”²² With respect to violations of procedural rules, however, the Commission determined that recovery is not always appropriate:

If . . . the procedural violation is inadvertently overlooked during the application phase and funds are disbursed, the Commission will not require that they be recovered, except to the extent that such rules are essential to the financial integrity of the program, as designated by the agency, or that circumstances suggest the possibility of waste, fraud, or abuse, which will be evaluated on a case-by-case basis.²³

This language from the *Fifth Report and Order* makes it clear that recovery of disbursed funds is inappropriate here. First, the invoicing rule is a procedural rule. In the *Fifth Report and Order*, the Commission described procedural rules as rules that are “codified to enhance operation of the [E-rate] program.”²⁴ The invoicing deadline certainly satisfies that description, as its only function is to ensure that invoices are submitted in a timely and predictable manner, so that funds can be disbursed in a timely and predictable manner. It is therefore clear that no substantive rule violation took place here.

Further, even if Leander ISD had violated the invoicing rule, USAC disbursed funds in spite of that fact, so “the procedural violation [was] inadvertently overlooked.” It cannot possibly be “essential to the financial integrity of the program” to recover a mere \$6,000 committed in funding year 2013—funding that was used to provide telecommunications services to the applicant in full compliance with the substantive rules of the E-rate program. Furthermore, USAC has not suggested any concerns about waste, fraud, or abuse in this case, and in fact there was no waste, fraud, or abuse.

²² *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808 ¶ 18 (2004) (*Fifth Report and Order*) (emphasis added).

²³ *Id.* ¶ 19.

²⁴ *Id.*

Accordingly, under the clear precedent of the *Fifth Report and Order*, there is no reason why USAC should seek recovery of disbursed funds in this case. USAC's decision to seek recovery should therefore be reversed.

III. IN THE ALTERNATIVE, A WAIVER OF THE COMMISSION'S RULES IS IN THE PUBLIC INTEREST

As we have explained, Leander ISD falls within the relief granted by the Bureau in the *Jefferson-Madison Regional Library Order*. Moreover, recovery for a purely procedural error is not supported by Commission precedent. Should the Bureau disagree, however, Leander ISD respectfully requests that the Bureau waive the Commission's rules to the extent necessary to grant the requested relief.

Any of the Commission's rules may be waived if good cause is shown.²⁵ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.²⁶ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²⁷

A waiver would further the goals of the E-rate program without undermining the purpose of the Commission's rules and would thus be in the public interest. As explained above, the funding in question was used to provide telecommunications services, in full compliance with the substantive E-rate rules. There was no fraud, no waste, no bad faith, not even negligence on the part of Leander ISD. It does not further the goals of the E-rate program to recover these

²⁵ 47 C.F.R. § 1.3.

²⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

funds; rather, it undermines those goals by punishing a blameless school district for what USAC now believes is its own mistake.

For these reasons, Leander ISD respectfully requests that the Bureau waive the Commission's rules to the extent necessary to grant the requested relief, and direct USAC to cease its recovery efforts.

IV. CONCLUSION

For the foregoing reasons, Leander ISD respectfully requests that the Bureau reverse USAC's decision and direct USAC to cease recovery efforts, or, in the alternative, waive the Commission's rules to the extent necessary to grant the requested relief.

Respectfully submitted,

/s/ Russell Neal

Russell Neal
VST Services, LP
905 Trophy Club Drive # 202
Trophy Club, TX 76262
rneal@vstservices.com
(682) 237-7670

E-rate Consultant for Leander ISD

January 8, 2019

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document will be sent via email to the Schools and Libraries Division, Universal Service Administrative Company at the Appeals@USAC.org address.

/s/ Theresa Schrader
Theresa Schrader

List of Exhibits

Affidavit of Russell Neal

- Exhibit 1 BEAR Invoice #2077234
- Exhibit 2 Leander ISD's invoicing deadline extension request was USAC case
 #22-683629
- Exhibit 3 August 2, 2017 Letter from USAC to Leander ISD
- Exhibit 4 BEAR Invoice #2656415
- Exhibit 5 June 18, 2018 RIDF Letter
- Exhibit 6 Leander ISD Appeal to USAC
- Exhibit 7 USAC Appeal Denial

Affidavit of Russell Neal

STATE OF TEXAS)
) SS
COUNTY OF DENTON)

I, Russell Neal, swear:

1. That I am the owner of VST Services, LP.
2. That I am a certified E-rate management profession, certified through the E-rate Management Professionals Association.
3. That VST Services, LP provides E-Rate management and consulting services for approximately 100 school districts and six educational service agencies.
4. That VST Services, LP manages annual E-Rate process from the beginning (RFP development) to the end (BEAR forms submittal & audits).
5. That VST Services LP began managing the E-Rate process for Leander ISD in August 2008 and have continued that role through the present time.
6. That I have read the foregoing appeal and avow the information stated therein is true and correct to the best of my knowledge and belief.

Further Affiant Sayeth Not.




Russell Neal, CEMP
VST Services, LP
905 Trophy Club Drive # 202
Trophy Club, TX 76262
682-237-7670

VERIFICATION


STATE OF TEXAS)
) SS
COUNTY OF DENTON)

COMES NOW, Russell Neal, and being first duly sworn upon my oath, state that I have read the foregoing Affidavit, and that the facts contained therein are true and correct to the best of my knowledge, information and belief, and that I sign the same as my free act and deed.



Russell Neal

On this 8th day of January, 2019, before me, a Notary Public in and for said state, personally appeared Russell Neal, known to me to be the person who executed the within Affidavit, and acknowledged to me that he executed the same for the purposes therein stated and that he executed the same as his free act and deed.



Notary Public

My Commission Expires:

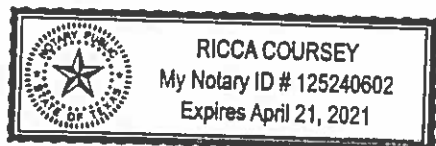


EXHIBIT 1

FCC Form 472

Do not write in this space.

Approved by OMB
OMB Control No. 3060 - 0856
Estimated time per Response: 1.0
hours

Universal Service for Schools and Libraries

Please read instructions
before completing.

(To be completed by schools,
libraries, or consortia.)

BILLED ENTITY APPLICANT REIMBURSEMENT FORM

For reimbursement of discounts on approved services already paid for by the Billed Entity Applicant.

Only one Service Provider Identification Number (SPIN) per form.

Must be completed and signed by the Billed Entity Applicant.

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 54 of the Commission's Rules authorizes the FCC to collect the information on this form. Failure to provide all requested information will delay the processing of the application or result in the application being returned without action. Information requested by this form will be available for public inspection. Your response is required to obtain the requested authorization.

The public reporting for this collection of information is estimated to range from 1 to 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERF, Paperwork Reduction Act Project (3060-0856), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND YOUR RESPONSE TO THIS FORM TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0856.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

Applicant Form Identifier (Create an identifier
for your own reference)
2477003

FCC Form 472 Invoice #
(To be inserted by administrator) 2077234

BLOCK 1: HEADER INFORMATION

1. Billed Entity Name	LEANDER INDEPENDENT SCHOOL DISTRICT
2. Billed Entity Number	141722
3. Service Provider Identification Number (SPIN)	143003953

Applicant FCC Form 498 ID

4. Contact Name	RUSSELL NEAL
5. Contact Telephone Number	682- 2377670 ext
6. Total Reimbursement Amount (total from Block 2, Column 14)	\$6,118.12

Approved by OMB
OMB Control No.3060 - 0856
Estimated time per Response: 1.0 hours

Billed Entity Applicant Reimbursement Form

For reimbursement of discounts on approved services already paid for by the Billed Entity Applicant.

Billed Entity Name LEANDER INDEPENDENT SCHOOL DISTRICT Billed Entity Number 141722

Contact Name RUSSELL NEAL Contact Telephone Number 682-2377670

Applicant Form Identifier 2477003

BLOCK 2: LINE ITEM INFORMATION PER FUNDING REQUEST NUMBER

	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
	FCC Form 471 Application Number (from Funding Commitment Decision Letter)	Funding Request Number (FRN) (from Funding Commitment Decision Letter)	Bill Frequency	Customer Billed Date (mm/yyyy)	Shipping Date to Customer or Last Day of Work Performed (mm/dd/yyyy)	Total (Undiscounted) Amount for Service	Discount Rate	Amount Billed to USAC (Column 12 multiplied by Column 13)
			DO NOT WRITE IN THIS COLUMN.	For each FRN, complete either Column (10) or Column (11), but not both Columns				
1	878283	2477003		11/1/2013		\$1,374.32	48.00	\$659.67
2	878283	2477003		8/1/2013		\$417.32	48.00	\$200.31
3	878283	2477003		10/1/2013		\$1,394.40	48.00	\$669.31
4	878283	2477003		7/1/2013		\$653.17	48.00	\$313.52
5	878283	2477003		3/1/2014		\$1,028.13	48.00	\$493.50
6	878283	2477003		4/1/2014		\$912.16	48.00	\$437.84
7	878283	2477003		6/1/2014		\$1,375.22	48.00	\$660.11
8	878283	2477003		1/1/2014		\$875.69	48.00	\$420.33
9	878283	2477003		5/1/2014		\$1,322.10	48.00	\$634.61
10	878283	2477003		2/1/2014		\$1,102.85	48.00	\$529.37
11	878283	2477003		12/1/2013		\$1,045.33	48.00	\$501.76
12	878283	2477003		9/1/2013		\$1,245.40	48.00	\$597.79
13								
14								
TOTAL REIMBURSEMENT AMOUNT TO BE ENTERED INTO ITEM (6)								\$6,118.12

Approved by OMB
OMB Control No.3060 - 0856
Estimated time per Response: 1.0 hours

BILLED ENTITY APPLICANT Reimbursement Form

Billed Entity Name LEANDER INDEPENDENT SCHOOL DISTRICT

Billed Entity Number 141722

Contact Name RUSSELL NEAL

Applicant Form Identifier 2477003

Block 3: Billed Entity Certification

I declare under penalty of perjury that the foregoing is true and correct and that I am authorized to submit this Billed Entity Applicant Reimbursement Form on behalf of the eligible schools, libraries, or consortia of those entities represented on this Form, and I certify to the best of my knowledge, information and belief, as follows:

- A. The discount amounts listed in this Billed Entity Applicant Reimbursement Form represent charges for eligible services and/or equipment delivered to and used by eligible schools, libraries, or consortia of those entities for educational purposes, on or after the service start date reported on the associated FCC Form 486.
- B. The discount amounts listed in this Billed Entity Applicant Reimbursement Form were already billed by the Service Provider and paid for by the Billed Entity Applicant on behalf of eligible schools, libraries, and consortia of those entities.
- C. The discount amounts listed in this Billed Entity Applicant Reimbursement Form are for eligible services and/or equipment approved by the Fund Administrator pursuant to a Funding Commitment Decision Letter (FCDL).
- D. I acknowledge that I may be audited pursuant to this application and will retain for at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification), after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request any and all records that I rely upon to complete this form.
- E. I certify that, in addition to the foregoing, this Billed Entity Applicant is in compliance with the rules and orders governing the schools and libraries universal service support program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with the rules and orders governing the schools and libraries universal service support program could result in civil or criminal prosecution by law enforcement authorities.

15. Signature of authorized person **Signed electronically by RUSSELL NEAL**

16. Date **10/1/2014**

17. Printed name of authorized person **RUSSELL NEAL**

18. Title or position of authorized person **E-RATE MANAGER**

19. Telephone number of authorized person **682- 2377670**

20. Address of authorized person **905 TROPHY CLUB DR, SUITE 202, TROPHY CLUB TX 76262-5422**

EXHIBIT 2

From: slidnoreply@sl.universalservice.org
To: [Tracy Neal](#)
Subject: SLD Inquiry #: 22-683629 Received
Date: Tuesday, October 21, 2014 10:23:11 AM

Thank you for using Submit a Question. This message serves as a receipt confirmation of your submission.

The case number for your submission is 22-683629.

Please refer to this case number in subsequent contacts regarding this issue. Note that we may need to ask you for additional information to completely answer your question or fulfill your request.

If you still have questions about this issue after you review our response, please call us at 1-888-203-8100. Please do not reply to this message or to our response, as replies go to an unattended mailbox.

If you have a new question or issue, please submit another question and we will create a new case number to address it.

If you need program information, you can visit the SLD web site at www.usac.org/sl.

Thank you.

Following is the information you submitted:

*[FirstName]=Tracy [LastName]=Neal [JobTitle]=E-Rate Consultant
[EmailAddress]=TracyNeal@vstservices.com [WorkPhone]=6822377671
[FaxPhone]=6822377674 [PreviousCaseNumber]=0 [FormType]=Invoice Extension
[Owner]=DEADLINEEXTENSIONS [DateSubmitted]=10/21/2014 11:24:43 AM
[AttachmentFlag]=N[Question2]=Contact Persons Name: Tracy Neal Contact Information:
TracyNeal@vstservices.com Customer: Leander ISD FCC Form 471 Application Number:
878283 Funding Request Number: 2477003 Service Provider Name: Bestline
Communications Service Provider Identification Number (SPIN): 143003953 USAC-assigned
Invoice Number (if known): 2077234 Amount of the Invoice: \$ 6,118.12 Reason for Extension:
Need to request bill copies.*

EXHIBIT 3



Universal Service
Administrative Co.

Schools and Libraries Division

Administrator's Decision on FCC Remand - Funding Year 2013

August 2, 2017

Ramiro Zuniga
LEANDER INDEPENDENT SCHOOL DISTRICT
PO BOX 218
LEANDER, TX 78646-0218

Re: Applicant Name: LEANDER INDEPENDENT SCHOOL DISTRICT
Billed Entity Number: 141722
Form 471 Application Number: 878283
Funding Request Number: 2477003
FCC Order: 17-526
FCC Order Release Date: May 30, 2017
Invoice Due Date: **September 1, 2017**

Dear Program Participant:

You are receiving this Administrator's Decision Letter because USAC has identified you as qualifying for relief provided for in FCC Order DA 17-526 released on May 30, 2017.

In DA 17-526, the FCC directed USAC to allow applicants to resubmit invoices, or Billed Entity Applicant Reimbursement (BEAR) forms, which had been timely filed between August 2014 and July 2016 and that were rejected "based on a lack of timely service provider certification before the invoice filing deadline." The FCC directed USAC to allow for resubmission of these BEARs and processing within the next 90 days.

We have identified your BEAR form for the invoice # 2077234 where the system change prevented service providers from certifying BEARs that were pending on July 1, 2016. The remaining commitment on this Funding Request is \$6362.84.

Please resubmit your BEAR form for the information identified above by September 1, 2017 for processing.

If you need further assistance with filing your BEAR form, please see the BEAR form instructions on the USAC website or contact our Client Service Bureau (CSB) at 1-888-203-8100.

In addition, please note, service providers need to annually file a Service Provider Annual Certification (SPAC) Form, to certify they will comply with program rules. Your service provider(s) must have a SPAC Form on file for each Service Provider Identification Number (SPIN) indicated on your BEAR form.

Sincerely,

Schools and Libraries Division
Universal Service Administrative Company

EXHIBIT 4

FCC Form 472

Do not write in this space.

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OMB Control No. 3060 - 0856
Estimated time per Response: 1.0
hours

Universal Service for Schools and Libraries

Please read instructions
before completing.

(To be completed by schools,
libraries, or consortia.)

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Must be completed and signed by the Billed Entity Applicant.

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FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 54 of the Commission's Rules authorizes the FCC to collect the information on this form. Failure to provide all requested information will delay the processing of the application or result in the application being returned without action. Information requested by this form will be available for public inspection. Your response is required to obtain the requested authorization.

The public reporting for this collection of information is estimated to range from 1 to 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERF, Paperwork Reduction Act Project (3060-0856), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND YOUR RESPONSE TO THIS FORM TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0856.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

Applicant Form Identifier (Create an identifier for your own reference) 2477003	FCC Form 472 Invoice # (To be inserted by administrator) 2656415
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BLOCK 1: HEADER INFORMATION

1. Billed Entity Name	LEANDER INDEPENDENT SCHOOL DISTRICT
2. Billed Entity Number	141722
3. Service Provider Identification Number (SPIN)	143003953

Applicant FCC Form 498 ID	443020520
4. Contact Name	RUSSELL NEAL
5. Contact Telephone Number	682- 2377670 ext
6. Total Reimbursement Amount (total from Block 2, Column 14)	\$6,118.12

Approved by OMB
OMB Control No.3060 - 0856
Estimated time per Response: 1.0 hours

Billed Entity Applicant Reimbursement Form

For reimbursement of discounts on approved services already paid for by the Billed Entity Applicant.

Billed Entity Name LEANDER INDEPENDENT SCHOOL DISTRICT Billed Entity Number 141722

Contact Name RUSSELL NEAL Contact Telephone Number 682-2377670

Applicant Form Identifier 2477003

BLOCK 2: LINE ITEM INFORMATION PER FUNDING REQUEST NUMBER

	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
	FCC Form 471 Application Number (from Funding Commitment Decision Letter)	Funding Request Number (FRN) (from Funding Commitment Decision Letter)	Bill Frequency	Customer Billed Date (mm/yyyy)	Shipping Date to Customer or Last Day of Work Performed (mm/dd/yyyy)	Total (Undiscounted) Amount for Service	Discount Rate	Amount Billed to USAC (Column 12 multiplied by Column 13)
			DO NOT WRITE IN THIS COLUMN.	For each FRN, complete either Column (10) or Column (11), but not both Columns				
1	878283	2477003	MONTHLY	5/1/2014		\$1,322.10	48.00	\$634.61
2	878283	2477003	MONTHLY	4/1/2014		\$912.16	48.00	\$437.84
3	878283	2477003	MONTHLY	8/1/2013		\$417.32	48.00	\$200.31
4	878283	2477003	MONTHLY	9/1/2013		\$1,245.40	48.00	\$597.79
5	878283	2477003	MONTHLY	6/1/2014		\$1,375.22	48.00	\$660.11
6	878283	2477003	MONTHLY	2/1/2014		\$1,102.85	48.00	\$529.37
7	878283	2477003	MONTHLY	7/1/2013		\$653.17	48.00	\$313.52
8	878283	2477003	MONTHLY	12/1/2013		\$1,045.33	48.00	\$501.76
9	878283	2477003	MONTHLY	10/1/2013		\$1,394.40	48.00	\$669.31
10	878283	2477003	MONTHLY	3/1/2014		\$1,028.13	48.00	\$493.50
11	878283	2477003	MONTHLY	11/1/2013		\$1,374.32	48.00	\$659.67
12	878283	2477003	MONTHLY	1/1/2014		\$875.69	48.00	\$420.33
13								
14								
TOTAL REIMBURSEMENT AMOUNT TO BE ENTERED INTO ITEM (6)								\$6,118.12

Approved by OMB
OMB Control No.3060 - 0856
Estimated time per Response: 1.0 hours

BILLED ENTITY APPLICANT Reimbursement Form

Billed Entity Name LEANDER INDEPENDENT SCHOOL DISTRICT

Billed Entity Number 141722

Contact Name RUSSELL NEAL

Applicant Form Identifier 2477003

Block 3: Billed Entity Certification

I declare under penalty of perjury that the foregoing is true and correct and that I am authorized to submit this Billed Entity Applicant Reimbursement Form on behalf of the eligible schools, libraries, or consortia of those entities represented on this Form, and I certify to the best of my knowledge, information and belief, as follows:

- A. The discount amounts listed in this Billed Entity Applicant Reimbursement Form represent charges for eligible services and/or equipment delivered to and used by eligible schools, libraries, or consortia of those entities for educational purposes, on or after the service start date reported on the associated FCC Form 486.
- B. The discount amounts listed in this Billed Entity Applicant Reimbursement Form were already billed by the Service Provider and paid for by the Billed Entity Applicant on behalf of eligible schools, libraries, and consortia of those entities.
- C. The discount amounts listed in this Billed Entity Applicant Reimbursement Form are for eligible services and/or equipment approved by the Fund Administrator pursuant to a Funding Commitment Decision Letter (FCDL).
- D. I acknowledge that I may be audited pursuant to this application and will retain for at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification), after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request any and all records that I rely upon to complete this form.
- E. I certify that, in addition to the foregoing, this Billed Entity Applicant is in compliance with the rules and orders governing the schools and libraries universal service support program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with the rules and orders governing the schools and libraries universal service support program could result in civil or criminal prosecution by law enforcement authorities.

15. Signature of authorized person **Signed electronically by RUSSELL NEAL**

16. Date **8/9/2017**

17. Printed name of authorized person **RUSSELL NEAL**

18. Title or position of authorized person **E-RATE MANAGER**

19. Telephone number of authorized person **682- 2377670**

20. Address of authorized person **905 TROPHY CLUB, SUITE 202, TROPHY CLUB TX 76262-5572**

EXHIBIT 5

Laurie Vondersaar
LEANDER INDEPENDENT SCHOOL DISTRICT
PO BOX 218
LEANDER, TX 78646 - 0218



Recovery of Improperly Disbursed Funds Letter

Laurie Vondersaar
LEANDER INDEPENDENT SCHOOL DISTRICT
PO BOX 218
LEANDER, TX 78646 - 0218

6/18/2018

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

Total amount to be recovered: \$6,118.12

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
878283	2477003	\$0.00	\$6,118.12	FCC Directive	Applicant

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.

Recovery of Improperly Disbursed Funds

Our review of your Universal Service Schools and Libraries Support Program (or E-rate) funding request(s) referenced in the Adjustment Report has determined funds were improperly disbursed in violation of Federal Communications Commission (FCC) rules. A copy of that Adjustment Report is also attached to this letter.



FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

FCC's Red Light Rule

The FCC Red Light Rule requires USAC to dismiss pending FCC Form 471 applications, appeals, and invoices or to net disbursements offsetting the debt if the entity responsible for paying the outstanding debt owed to the FCC has not paid the debt or made satisfactory arrangements to pay the debt within 30 days of the Demand Payment Letter. For information on the Red Light Rule, see

<https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>

To Appeal This Decision

If you wish to contest any part of this letter, you must first file an appeal with USAC to seek review of the decision. Parties that have filed an appeal with USAC and received an adverse decision may, if they choose, appeal USAC's decision to the FCC. Parties seeking a waiver of a codified FCC rule should file a request for waiver directly with the FCC because USAC cannot waive FCC rules. Your appeal to USAC or waiver request to the FCC must be filed within 60 days of the date of this letter.

All appeals filed with USAC must be filed in EPC by selecting "Appeal" from the menu in the top right hand corner of your landing page and providing the requested information.

Your appeal should include the following information. (Because you file the appeal through your EPC account, the system will automatically fill in some of these components for you).

- 1) Name, address, telephone number, and email address for the contact person for this appeal.
- 2) Indicate specifically that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., Recovery of Improperly Disbursed Funds) and the decision you are appealing:



- a. Appellant name;
- b. Applicant name and service provider name, if different from appellant;
- c. Applicant BEN and Service Provider Identification Number (SPIN);
- d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
- e. "Recovery of Improperly Disbursed Funds," AND the exact text or the decision that you are appealing.

3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

For more information on submitting an appeal to USAC including step by step instructions on how to file the appeal through EPC, please see "Appeals" in the Schools and Libraries section of the USAC website.

As mentioned, parties seeking a waiver of FCC rules or that have filed an appeal with USAC and received a decision may file a request for waiver or appeal USAC's decision to the FCC. Waiver requests or appeals to the FCC must be made within 60 days of the issuance of USAC's decision and include all of the information referenced above for appeals to USAC.

The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division

cc: Robert Milani
Bestline Communications, LP



Adjustment Report

FCC Form 471 Application Number:	878283
Funding Request Number:	2477003
Commitment Adjustment:	\$0.00
Total Amount to Be Recovered:	\$6,118.12
Explanation(s):	FCC Directive
Party to Recover From:	Applicant
Funding Year:	2013
Billed Entity Number:	141722
Services Ordered:	TELCOMM SERVICES
Service Provider Name:	Bestline Communications, LP
SPIN:	143003953
Original Funding Commitment:	\$6,362.84
Adjusted Funding Commitment:	\$6,362.84
Funds Disbursed to Date:	\$6,118.12

Funding Commitment Adjustment Explanation

You received disbursements after your invoice deadline. For recurring services, invoices must be submitted no later than 120 days after the last day to receive service or 120 days after the FCC Form 486 Notification Letter date, whichever is later. Services must be delivered within the fund year. Your invoice was received after the invoice deadline. Therefore, USAC must seek recovery of improperly disbursed funds in the amount of \$6,118.12.

EXHIBIT 6

August 16, 2018

Letter of Appeal
Universal Service Administrative Company
Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza West
P.O. Box 685
Parsippany, NJ 07054-0685

Re: Appeal of Leander Independent School District; FY 2013; BEN: 141722

Dear Appeals Reviewer:

Pursuant to 47 C.F.R. § 54.719(a), Leander Independent School District (Leander ISD or the District) hereby respectfully submits this appeal of a decision by the Universal Service Administrative Company (USAC) to recover funds from Leander ISD for funding year 2013. VST Services, LLC, is Leander ISD's E-rate consultant, and is filing this for the District.

Funding Year	Form 471#	FRN#	Recovery Letter
2013	878283	2477003	June 18, 2018

Contact:

/s/ Russell Neal

Russell Neal
VST Services, LP
905 Trophy Club Drive # 202
Trophy Club, TX 76262
rneal@vstservices.com
(682) 237-7670

USAC's Funding Commitment Adjustment Explanation

You received disbursements after your invoice deadline. For recurring services, invoices must be submitted no later than 120 days after the last day to receive service or 120 days after the FCC Form 486 Notification Letter date, whichever is later. Services must be delivered within the fund year. Your invoice was received after the invoice deadline. Therefore, USAC must seek recovery of improperly disbursed funds in the amount of \$6,118.12.

Summary

Leander ISD respectfully appeals USAC's decision to recover disbursed funds for funding year 2013. Leander ISD resubmitted its BEAR form for the above-captioned FRN in August 2017, after USAC sent a letter informing Leander ISD that it qualified for relief pursuant to the Commission's *Jefferson-Madison Regional Library Order*. USAC subsequently disbursed the requested funds, but now—a year later—seeks to recover them.

Leander ISD complied with the Commission's invoicing rule, submitting its original BEAR form on time, and then submitting a timely request for an extension of the deadline because it had been unable to obtain the service provider's certification before filing the BEAR. When it was later informed that it could resubmit the BEAR form, it did so promptly. It is unclear why USAC has determined that its original decision—that Leander ISD's application qualified for relief under the *Jefferson-Madison Regional Library Order*—was incorrect, when the facts of Leander ISD's original application fall squarely within the relief described in that order. Regardless, Leander ISD respectfully argues that USAC's efforts to recover these funds are inconsistent with the Commission's *Fifth Report and Order* as well, and that USAC should therefore reverse its decision.

USAC disbursed funds originally requested in 2013 after Leander ISD resubmitted its BEAR form, signed by the vendor this time, in August 2017. Now, USAC seeks repayment of those funds, even though every submission made by Leander ISD was timely and in accordance with Commission rules and USAC procedures. USAC's stated reason for seeking recovery not only does not explain USAC's abrupt reversal; it contains no legitimate reason for seeking recovery.

Importantly, it should be noted that there is no substantive issue here—either with the application or the invoices themselves. This is funding that Leander ISD was entitled to and should have received years earlier than it did, but for its vendor's failure to timely certify the District's BEAR invoice.

As such, Leander ISD respectfully requests USAC cease its recovery efforts as described above.

Background

On January 30, 2014, Leander ISD received a funding commitment of \$6,362.84 for the above-captioned FRN for funding year 2013. The service provider was Bestline Communications, LP.

On October 1, 2014, well ahead of the October 28, 2014 invoicing deadline, Leander ISD submitted invoice #2077234 to USAC through the legacy BEAR system.¹ The invoice was for \$6,118.12, reflecting the total amount billed by the service provider for the above-captioned FRN. Because Bestline's representative was out of the country at the time, Bestline did not certify the BEAR invoice. (Prior to funding year 2016, applicants that submitted BEAR forms also had to obtain a certification from their service provider that it had provided the requested services to the applicant.) Leander ISD timely submitted an extension request (case #22-683629) in order to obtain the service provider's certification for the invoices, as well as copies of the associated bills.

Leander ISD heard nothing from USAC after submitting its BEAR form and did not receive the requested funding. Then, on August 2, 2017, Leander ISD received a letter from USAC.² This letter informed Leander ISD that it could resubmit its invoice because the Commission had issued an order that allowed applicants to submit invoices that had been "late" because they were waiting on their service providers to certify their BEAR invoices.³ Leander ISD promptly submitted BEAR invoice #2656415 for the funding request.⁴ USAC approved the invoice and disbursed the requested funding.

On June 18, 2018, Leander ISD received a recovery of improperly disbursed funds (RIDF) letter from USAC.⁵ The letter stated that Leander ISD had submitted its invoice after the invoice deadline.

Appeals of USAC decisions are due within 60 days.⁶ As such, this appeal is timely filed.

Discussion

USAC should cease recovery efforts in this case first and foremost because its original conclusion was the correct one: Leander ISD qualifies for the relief outlined in the *Jefferson-Madison Regional Library Order*. Its original invoice was filed on time, but without the required certification by the service provider. This is exactly the scenario for which the *Order* granted relief. In addition, even if the *Jefferson-Madison Regional Library Order* did not apply, seeking recovery of funds would still be inappropriate under the Commission's *Fifth Report and Order*, because the invoicing rule is a purely procedural rule, and any error that USAC believes was made was not discovered until after the funds were disbursed. Under the *Fifth Report and Order*, recovery is not warranted in those circumstances.

¹ Exhibit 1, BEAR Invoice #2077234.

² Exhibit 2, August 2, 2017 Letter from USAC to Leander ISD.

³ *Id.*

⁴ Exhibit 3, BEAR Invoice #2656415.

⁵ Exhibit 4, June 18, 2018 RIDF Letter.

⁶ 47 C.F.R. §§ 54.719(a), 54.720(b).

a. USAC Should Cease Recovery Efforts Because Leander ISD Falls Within the Relief Granted by the Commission in 2017

In the *Jefferson-Madison Regional Library Order*, the Commission's Wireline Competition Bureau reversed USAC's decision to reject a timely filed invoice when the service provider had not certified the invoice prior to the invoice filing deadline.⁷ WCB granted relief to all other similarly situated applicants to resubmit invoice filings.⁸ WCB found that the applicants in these circumstances were in compliance with section 54.514(a) of the E-rate program rules.⁹ Specifically, these applicants had filed their BEAR invoices on time and only lacked the service provider's certification prior to the deadline.¹⁰ WCB found that the Commission's rule required the BEAR form to be filed prior to the deadline, but the rule did not require the submission of the BEAR certification prior to the deadline.¹¹

Just like in the *Jefferson-Madison Regional Library Order*, here Leander ISD had submitted its BEAR invoice prior to the deadline for funding year 2013. Leander ISD also timely submitted an extension request in order to allow it time to obtain the BEAR certification from its service provider. Leander ISD thus meets the requirements set forth in the *Jefferson-Madison Regional Library Order*.

USAC's RIDF notice did not explain why USAC no longer believed that Leander ISD was eligible for relief under the *Jefferson-Madison Regional Library Order*, so it is unclear what other facts USAC believes are relevant. Indeed, the entire basis of USAC's decision to seek recovery is unclear, as the funding commitment adjustment explanation in the letter includes no legitimate reason for seeking recovery:

You received disbursements after your invoice deadline. For recurring services, invoices must be submitted no later than 120 days after the last day to receive service or 120 days after the FCC Form 486 Notification Letter date, whichever is later. Services must be delivered within the fund year. Your invoice was received after the invoice deadline.

The first sentence is correct but irrelevant, because there is no prohibition on receiving disbursements after the invoice deadline. The third sentence is correct but not a ground for recovery in this case, because the services *were* delivered within the funding year. The second and fourth sentences are incorrect because Leander ISD's invoice was not filed after the invoice deadline: it was filed on time, as described above, and the *Jefferson-Madison Regional Library Order* made clear that the absence of a service provider certification at the time of filing does not

⁷ *Petitions for Reconsideration by Jefferson-Madison Regional Library, et al.*, CC Docket No. 02-6, Order on Reconsideration, 32 FCC Rcd 4626 ¶ 1 (Wireline Comp. Bur. 2017) (*Jefferson-Madison Regional Library Order*).

⁸ *Id.*.

⁹ *Id.* ¶¶ 7-8.

¹⁰ *Id.* ¶ 6.

¹¹ *Id.* ¶¶ 7-8.

change this fact.¹² Accordingly, USAC’s explanation for its recovery effort contains no actual *reason* to seek recovery.

b. Recovery for a Purely Procedural Error Is Not Supported by Commission Precedent

USAC’s recovery effort is wholly inconsistent with the *Fifth Report and Order*, in which the Commission established a presumption that procedural errors that are not identified before funding is disbursed do not warrant recovery. The invoicing deadline is a procedural rule, so any violation of it is a procedural error. Accordingly, USAC’s recovery effort in this case is inconsistent with the *Fifth Report and Order*.

In the *Fifth Report and Order*, the Commission addressed the circumstances under which USAC should seek to recover disbursed funding. The Commission stated that “[i]t is clear that funds disbursed in violation of the statute or a rule that implements the statute or a *substantive* program goal must be recovered.”¹³ With respect to violations of *procedural* rules, however, the Commission determined that recovery is not always appropriate:

If . . . the procedural violation is inadvertently overlooked during the application phase and funds are disbursed, the Commission will not require that they be recovered, except to the extent that such rules are essential to the financial integrity of the program, as designated by the agency, or that circumstances suggest the possibility of waste, fraud, or abuse, which will be evaluated on a case-by-case basis.¹⁴

This language from the *Fifth Report and Order* makes it clear that recovery of disbursed funds is inappropriate here. First, the invoicing rule is a procedural rule. In the *Fifth Report and Order*, the Commission described procedural rules as rules that are “codified to enhance operation of the [E-rate] program.”¹⁵ The invoicing deadline certainly satisfies that description, as its only function is to ensure that invoices are submitted in a timely and predictable manner, so that funds can be disbursed in a timely and predictable manner. It is therefore clear that no substantive rule violation took place here.

Further, if Leander ISD indeed violated the invoicing rule, USAC disbursed funds in spite of that fact, so “the procedural violation [was] inadvertently overlooked.” It cannot possibly be “essential to the financial integrity of the program” to recover a mere \$6,000 committed in funding year 2013—funding that was used to provide telecommunications services to the applicant in full compliance with the substantive rules of the E-rate program. Furthermore,

¹² *Id.* ¶ 8 (“We now find that under section 54.514(a) of the Commission’s rules, USAC should have considered a BEAR form timely if it was submitted before the invoice filing deadline even if the service provider had not certified it before the invoice filing deadline.”).

¹³ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808 ¶ 18 (2004) (*Fifth Report and Order*) (emphasis added).

¹⁴ *Id.* ¶ 19.

¹⁵ *Id.*

USAC has not suggested any concerns about waste, fraud, or abuse in this case, and in fact there was no waste, fraud, or abuse.

Accordingly, under the clear precedent of the *Fifth Report and Order*, there is no reason why USAC should seek recovery of disbursed funds in this case.

Conclusion

Leander ISD does not believe that it committed any error with respect to the above-captioned FRN. USAC acknowledged as much when it reached out to Leander ISD and allowed it to resubmit its invoice pursuant the *Jefferson-Madison Regional Library Order*. USAC's recovery letter offers no explanation of why USAC changed its mind and no legitimate basis for seeking recovery. But even if USAC no longer believes that Leander ISD is eligible for relief under the *Jefferson-Madison Regional Library Order*, the *Fifth Report and Order* made clear that the Commission would consider this at most a procedural error that does not warrant recovery. For these reasons, Leander ISD respectfully asks that USAC reverse its decision and cease recovery efforts.

EXHIBIT 7



Administrator's Decision on Appeal – Funding Year 2013

November 9, 2018

Russell Neal, CEMP
VST Services, LP
905 Trophy Club Drive # 202
Trophy Club, TX 76262

Re: Applicant Name: Leander Independent School District
Billed Entity Number: 141722
Form 471 Application Number: 878283
Funding Request Number(s) (FRN): 2477003
Your Correspondence Received Dated: August 16, 2018

The Universal Service Administrative Company (USAC) has completed its evaluation of the August 16, 2018 letter of appeal (Appeal) submitted by Leander Independent School District (the District).¹ The Appeal requests that USAC cease its recovery action because the District timely submitted its invoice before the extended September 1, 2017 invoicing deadline.²

USAC has reviewed the appeal and the facts related to this matter and determined that it cannot grant the appeal because USAC is not authorized to waive the Federal Communications Commission (FCC) rules.³ USAC is also required to seek recovery for funding that is disbursed in violation of the FCC rules.⁴

On May 30, 2017, the Federal Communications Commission (FCC) issued the *Jefferson-Madison Reconsideration Order* directing USAC to identify and allow all applicants who

¹ Letter from Russell Neal, consultant, VST Services, LP to Schools and Libraries Division, USAC (August 16, 2018) (*Appeal*).

² *Id.* at 2.

³ See generally, 47 C.F.R. § 54.702(c) (2013) (“[USAC] may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress.”). See 47 C.F.R. § 54.719(c) (“Parties seeking waivers of the Commission’s rules shall seek relief directly from the Commission.”).

⁴ See *Changes to the Bd. Of Directors of the Nat’l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, FCC 99-291 (1999) (*Commitment Adjustment Order*); *Changes to the Bd. Of Directors of the Nat’l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, 15 FCC Rcd 7197 (1999) (*Commitment Adjustment Waiver Order*); *Changes to the Bd. of Directors of the Nat’l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, 15 FCC Rcd 22975 (2000) (*Commitment Adjustment Implementation Order*).



Universal Service
Administrative Co.

timely filed their Billed Entity Application for Reimbursement (BEAR) forms to be allowed to resubmit their BEAR forms even if their service provider failed to certify the BEAR form prior to the original invoicing deadline.⁵

The invoicing deadline for Funding Request Number (FRN) 2477003 was March 12, 2015. The District did not submit a BEAR form for that FRN by that deadline, and therefore was ineligible for relief under the *Jefferson-Madison Reconsideration Order*. However, USAC erroneously identified the District as an applicant who qualified for the relief and improperly extended the invoice filing deadline for FRN 2477003 to September 1, 2017.⁶ Because USAC is not authorized to waive the FCC's invoicing deadline rules,⁷ USAC must recover funding that was disbursed in violation of the FCC's rules.⁸ For these reasons, your appeal is denied.

If you want to seek a waiver of FCC rules, or if you wish to appeal this decision, you must submit your request for waiver or appeal to the FCC within 60 days of the date of this decision letter. On all communications with the FCC, be sure to reference CC Docket No. 02-6. The FCC recommends filing with the Electronic Comment Filing System (ECFS) to ensure timely filing. You can find instructions for using ECFS on the ECFS Online Manual page of the FCC's website. The FCC will consider electronic filings as filed on a business day if they are received before midnight ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193 or via email. For additional information about submitting appeals or waiver requests to the FCC, including options to submit via U.S. mail or hand delivery, visit the FCC's website at: <https://www.fcc.gov/reports-research/guides/how-file-paper-documents-fcc>.

⁵ *Petition for Reconsideration by Jefferson-Madison Regional Library*, CC Docket No. 02-6, Order on Reconsideration, 32 FCC Rcd 4626, 4632, para. 15 (2017).

⁶ See Letter from Schools and Libraries Division, USAC to Ramiro Zuniga, Leander Independent School District (Aug. 2, 2017) (notifying the District that it qualified for relief pursuant to the *Jefferson-Madison Order* and extending the invoicing deadline to September 1, 2017).

⁷ See generally, 47 C.F.R. § 54.702(c) (2013) ("[USAC] may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress."). See 47 C.F.R. § 54.719(c) ("Parties seeking waivers of the Commission's rules shall seek relief directly from the Commission."). *Request for Review of the Decision of the Universal Service Administrator by Merced Union High School*, CC Docket No. 96-45, Order, 15 FCC Rcd 18803, 18805 (2000) ("We note that rules and policies are enforced even where a party received erroneous advice from a government employee, and the Commission is not estopped from enforcing its rules in a manner that is inconsistent with the advice provided by the employee, particularly when the relief requested would be contrary to an applicable statute or rule.").

⁸ See *Changes to the Bd. Of Directors of the Nat'l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, FCC 99-291 (1999) (*Commitment Adjustment Order*); *Changes to the Bd. Of Directors of the Nat'l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, 15 FCC Rcd 7197 (1999) (*Commitment Adjustment Waiver Order*); *Changes to the Bd. of Directors of the Nat'l Exchange Carrier Association, et al.*, CC Docket Nos. 96-45, *et al.*, Order, 15 FCC Rcd 22975 (2000) (*Commitment Adjustment Implementation Order*).



Universal Service
Administrative Co.

Schools and Libraries Division
Universal Service Administrative Company

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Billed Entity Number: 141722
Form 471 Application Number: 878283
Form 486 Application Number: 1002131